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Examiner: Zeinab E. EL-Arini
Group Art Unit: 1746

REMARKS/ARGUMENTS

Claims 1- 23 are pending in the application. In this Office Action, the drawings stand objected to for failure to include a reference sign mentioned in the description, claims 1- 23 stand rejected under 35 U.S.C. §112, ¶2, and 35 U.S.C. §103(a). Claims 1- 23 stand provisionally rejected for alleged obviousness-type double patenting over claims 1- 11 of Application Serial No. 10/714,110, and claims 1 and 3-5 stand provisionally rejected for alleged obviousness-type double patenting over claims 7 and 8 of Application Serial No. 10/713,304.

In this Amendment and Response, claims 1, 3-7, and 9-23 are canceled without prejudice. Independent claim 24 and dependent claims 25-39 are added. Claims 2 and 8 are amended for purposes of dependency, form, and clarification. Paragraph [0031] of the description has been amended to correct a typographical error. Reconsideration and reexamination of the application is respectfully requested in view of the following remarks.

Objections to Drawings

The drawings stand objected to under 37 CFR §1.84(p)(5) for allegedly failing to include a reference sign mentioned in the description. The objection is respectfully traversed.

The cited reference sign, i.e. "Input C", referred to on page 10, line 7 of the description, involves a typographical error. The references to Figure 2 and Figure 3 should be references to Figure 1 and Figure 2, respectively. Paragraph [0031] has been amended to correct this typographical error. Consequently, amendments of the drawings are unnecessary, and Applicants request the withdrawal of the objection and the acceptance of the drawings.

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Claim Rejections - 35 U.S.C. §112, ¶2

Claims 1- 23 stand rejected under 35 U.S.C. §112, ¶2, as allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. This rejection is respectfully traversed.

Independent claim 1 has been canceled without prejudice. New independent claim 24 has been added, from which the remaining claims in the application depend. New claims 25-32 are not indefinite under 35 U.S.C. §112, ¶2. Claims 3-7 and 9-23 are also canceled without prejudice, and the amendments of claims 2 and 8 render these claims not indefinite under 35 U.S.C. §112, ¶2.

For these reasons, claims 2, 8 and 24-32 are patentable for indefiniteness. Applicants request the withdrawal of the rejection, and the allowance of these claims.

Claim Rejections-Obviousness-Type Double Patenting

Claims 1- 23 stand provisionally rejected as unpatentable over claims 1-23 of Application Serial No. 10/714,110. This rejection is respectfully traversed.

The claims as amended do not raise any double patenting issues with respect to any claims in Application Serial No. 10/714,110. According to the Office Action, the basis for the double-patenting rejection lied in the unclear nature of the claims. The amended claims of the current application are clear. A literal reading of the amended claims makes clear that they do not raise any double-patenting issues with the '110 application.

For these reasons, the amended claims are not unpatentable for obviousness-type double patenting. Applicants request the withdrawal of the rejection, and the allowance of the amended claims.

Claims 1 and 3-5 stand provisionally rejected as unpatentable over claims 7 and 8 of Application Serial No. 10/713,304. This rejection is respectfully traversed.

As amended, the claims in the current application are directed to determining the degree of soiling and setting an operational parameter based on the degree of soiling. This is a patentably distinct claim scope than what is found in the claims of the '304 application. As such,

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there is no double patenting issue.

Claim Rejections - 35 U.S.C. §103(a)

Claims 1- 23 stand rejected under 35 U.S.C. §103(a) as allegedly unpatentable over US Patent No. 3,888,269 to Bashark. The rejection is respectfully traversed.

As discussed above, claims 1, 3-7, and 9-23 are canceled without prejudice. Thus, the rejection of the cancelled claims is moot. Notwithstanding the cancellation of the claims, amended claims 2 and 8, and new claims 24-41 are patentable over Bashark '269.

Bashark '269 describes a turbidity sensor for a dishwasher wherein the degree of turbidity of the dishwashing liquid based upon outputs from the turbidity sensor is used to modify a generally standardized cleaning cycle comprising one or more generally standardized rinse cycles. Nothing in Bashark '269 even suggests determining the degree of soiling of the rinse liquid by determining the turbidity of the lower and upper wash planes as now required by claim 24.

As Bashark '269 does not teach or suggest the claimed method, claim 24 is not obvious in view of Bashark '269. As such, the claims currently pending in the application are novel and patentable over Bashark '269.

For these reasons, the claims in the application are patentable over Bashark '269. Applicants request the withdrawal of the rejection, and the allowance of the claims.

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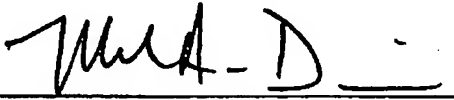
CONCLUSION

For the reasons discussed above, all claims remaining in the application are allowable.
Early notification of allowability is respectfully requested.

If there are any remaining issues which the Examiner believes may be resolved in an interview, the Examiner is respectfully invited to contact the undersigned.

Respectfully submitted,
CLEMENS JUNG ET AL.

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